

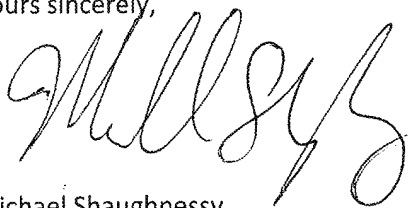
Dear Dr. Newman,

After our meeting yesterday, I took a look at the ER physician PDC non-compete agreement. I'm afraid it is of little help as it appears nearly identical in every way to the Specialty Physician agreement. Enclosed are my signed documents, delivered to Cathy Cox this afternoon of May 3, 2011.

With regard to the Specialty Agreement I have a simple proposal. Based on your goals and mine, I believe that a fair compromise may be reached if we simply change the "Cost Share" amount of the agreement to that of my "signing bonus," otherwise termed the faculty transition dollars of \$20,000. I believe this amount more accurately reflects the "damages" to the PDC that would be incurred if I were to leave and compete. To illustrate this, I would like you to reconsider the example of the "hotshot" recruited neurosurgeon compared to a new anesthesiologist (me) that we discussed yesterday. Hopefully this proposal also meets your desire to have UNC included as a competitor. Finally, it is frankly still a lot of money, especially to me and it is probably an accurate representation of the amount that it would cost to bring me aboard, recognizing of course that I am in a sense already here and credentialed, thus discounted slightly compared to an outsider, for whom you mentioned it may cost approximately \$40,000.

The way I have left the signed documents, we can discuss this further and hopefully mutually agree on a non-compete agreement that works for both of us while moving forward with my employment and the department needs.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "M. Shaughnessy".

5/3/11

Michael Shaughnessy



DukeMedicine

Department of Anesthesiology

Mark F. Newman, MD  
Merel H. Harmel Professor and Chairman

April 13, 2011

Michael Shaughnessy, M.D.  
PO Box 3094 DUMC  
Durham NC 27710

Dear Dr. Shaughnessy:

It is with great pleasure that we write to offer you a faculty position in the Department of Anesthesiology at Duke Medicine. We are very excited about the prospect of having you join us at Duke, as we know that you will make major contributions in advancing our academic and clinical mission.

You will have an appointment as an Assistant Professor, track IV and will be a member of the Private Diagnostic Clinic ("PDC"), our faculty practice plan. Your appointment is contingent upon approvals of the appropriate School of Medicine committees, the Dean of the School of Medicine, the Provost, the President, the Visa Services office if applicable and the Board of Trustees. You will also need to execute the PDC Operating Agreement and related documents. Details of the offer are summarized below:

1. Appointment Rank: Assistant Professor, track IV
2. Anticipated Effective Date: August 1, 2011
3. Responsibilities and percentage of effort:

Your clinical activities will be performed as a member of the PDC, and your academic activities will be performed in your capacity as a Duke University School of Medicine faculty member in the Division of Orthopedics, Plastics and Regional Anesthesiology under the guidance of Division Chief, Dr. Gavin Martin. Your background and training makes you a highly desirable Anesthesiology Faculty Member.

Dr. Richard Moon will be your mentor and you will meet quarterly to discuss and review your progress. Your background and training makes you a highly desirable Anesthesiology Faculty Member.

- Clinical - 80% Clinical responsibilities will include supervision, management and safe delivery of anesthetic care in the OR. You will coordinate the clinical activities of the OR during calls and late calls, and provide cross coverage to other services as dictated by departmental needs.

DUMC 3094, Durham, NC 27710

919.681.6646  
919.681.2923

anesthesiology@duke.edu  
newman005@mc.duke.edu

dukemedicine.org

- Academic -20 % - Research: to include coordination, execution and collection of data for clinical research projects under the guidance of your mentor or another suitable faculty member whom you identify. Training/Education: including teaching and supervision responsibilities of medical students, residents, fellows and CRNA's, both in and outside of the OR.

4. Compensation: \$225,350 per year

Breakdown of Compensation:                      University \$20,000  
                                                                                  PDC \$205,350

5. Benefits: As a full-time member of the Regular Rank faculty, you will be eligible to participate in the benefits packages offered by the Duke University School of Medicine. Please review attached "Terms and Conditions" for more specifics.

You are also eligible for the benefits associated with PDC membership. You may reference (<http://pdcweb.mc.duke.edu/Member/memberbenefits.html>) or telephone (919)684-4358.

6. Resources to support you include: Office space and administrative staff support will be determined by your Division Chief, Dr. Gavin Martin. A computer will be provided by the Department.

7. Faculty Discretionary Account (FDA): In the amount of \$6,000/year will be established and may be used for legitimate professional expenses including meetings (travel, registration, meals, and accommodations), subscriptions and dues. Residual funds from any given year may be carried over to the next year but the total amount may not grow beyond \$10,000.

8. Moving Expenses: Reasonable moving expenses will be paid by the PDC in the amount of \$5,000. In addition, a special one-time payment of up to \$10,000 to assist with the purchase of a home or existing mortgage will be made available to you and may be combined with the moving expenses to establish your residence. Please contact, Ilene Farkas, our Human Resources Manager, for details at (919) 684-6120 or [Ilene.farkas@duke.edu](mailto:Ilene.farkas@duke.edu).

7. Housing  
 Assistance as  
 per Exhibit  
 A  
 Mrs

It is important that you continue to develop intellectual interests and pursue them. You will have the opportunity to work with the members of your division to do clinical research. Success in these investigations leads primarily to your own satisfaction, moves the field forward, and brings prestige to your colleagues and to Duke University. Your potential Duke collaborators are many. One or two members of your division should be selected by you to be your major collaborators in the areas in which you concentrate. Dr. Martin will assist you in these efforts.

Time off for attending meetings, scheduling of vacation, and daily assignments will be at the discretion of your Division Chief. Your clinical and non-clinical time allocation will similarly be decided by your Division Chief.

If your appointment to the Faculty must be postponed due to the meeting schedule of the Board of Trustees, you may be hired in the position of Instructor Temporary until your appointment can

be approved. Your compensation and benefits in this position will match your Faculty compensation and benefits, but technically you will not be a member of the Faculty until approved by the Board of Trustees.

Michael, we are very excited about the prospect of having you join the PDC and the faculty of the Department of Anesthesiology at Duke Medicine effective August 1, 2011. If there are issues that we need to discuss further, please let me know. We look forward to hearing your decision as soon as possible. If you accept this position, please indicate at the bottom of this letter, and return one copy of the letter to the Chairman's Office by ~~April 29, 2011~~ <sup>May 3, 2011</sup>. Please keep one copy for your files. This offer is at the recommendation of Dr. Martin as well as the other faculty in the Division of Orthopedics, Plastics and Regional Anesthesiology and of course, myself.

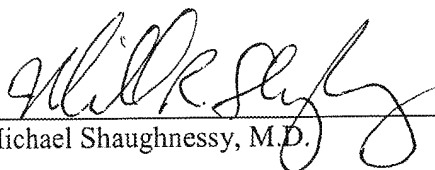
We are very much looking forward to you joining us at Duke in the Department of Anesthesiology.

Kind regards,

Mark F. Newman, M.D.  
Merel H. Harmel Professor and Chairman  
Department of Anesthesiology

I accept this offer as outlined above.

5/3/11  
(Date)

  
Michael Shaughnessy, M.D.

## Standard Terms and Conditions for Regular Rank Faculty Appointment

Name: Michael Shaughnessy, M.D.

### Appointment Details:

1. Appointment Term: Your appointment will be renewed on a continuing annual basis, subject to satisfactory annual performance and programmatic needs. It is anticipated that reappointment will be negotiated six months prior to the expiration of your initial term of appointment. In order to prepare proactively for reappointments and promotion, we encourage you to maintain records of your teaching activities and evaluations.

2. CV: Your home department will provide templates for organizing your *curriculum vitae* data in Duke format and for summarizing your teaching activities. Please contact Gloria Howard at 919-681-6493 or gloria.howard@duke.edu, for this information.

### Benefits:

As a full-time member of the Regular Rank Faculty, you will be eligible to participate in the benefits packages offered by the Duke University School of Medicine. You may view a summary of Faculty benefits at our Human Resources website (<http://www.hr.duke.edu>). Benefits office phone: (919) 684-5600.

### Orientation:

Your benefits will also be discussed as part of your Duke University employee orientation, which will occur within 2 weeks of being hired. You should also arrange to meet with Gloria Howard at 919-681-6493 or gloria.howard@duke.edu, for this information.

**Private Diagnostic Clinic Operating Agreement:** As a member of the PDC, you will need to sign a PDC Operating Agreement and other related documents, including a Non-Compete Agreement. A representative from the PDC will coordinate this with you. *a mutually agreed upon*

**Medical licensure, DEA and hospital credentials (if applicable):** Please note that you cannot be hired and compensated until requirements for medical licensure, DEA and hospital credentials are fulfilled. *MRS*

### University Policies:

As a full-time University employee, you will be subject to all applicable University policies, as they may exist from time to time, including:

1-Conflict of interest: (<http://www.provost.duke.edu/pdfs/fhb/FHB.pdf> - Appendix O

2-Patents and Tangible research property (<http://www.provost.duke.edu/pdfs/fhb/FHB.pdf> - see Appendix P

3-Conflict of Interest Policy website and instructions : (COI Form: [https://coi.duke.edu/coi\\_form](https://coi.duke.edu/coi_form); and COI Website: [http://medschool.duke.edu/modules/som\\_conflict/index.php?id=1](http://medschool.duke.edu/modules/som_conflict/index.php?id=1)).

4- Faculty Handbook: <http://www.provost.duke.edu/pdfs/fhb/FHB.pdf>

5- School of Medicine: [http://medschool.duke.edu/modules/som\\_faculty/index.php?id=1id=1](http://medschool.duke.edu/modules/som_faculty/index.php?id=1id=1)



## Exhibit A

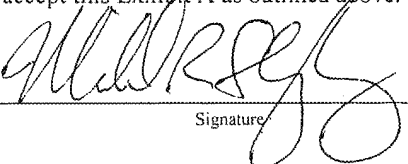
Michael Shaughnessy, the specific details of your compensation package are as follows:

Total first year compensation is \$280,350 which includes:

- |             |                               |                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ◇ \$190,350 | Expected Annual CDEs          | You will be required to work a minimum of 202.5 CDE's. Should you work additional CDE's, you will be compensated for the number of CDE's worked in total. Based on your years of experience, your compensation per CDE is \$940.                                                                                                                                                                                                |
| ◇ \$10,000  | Base Compensation             |                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| ◇ \$5,000   | Fellowship                    |                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| ◇ \$5,000   | PCA Base - Exhibit A          |                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| ◇ \$15,000  | PCA - Exhibit B               | On completion of basic departmental academic expectations and your exhibit B, completed in conjunction with your Division Chief. This amount varies yearly based on productivity."                                                                                                                                                                                                                                              |
| ◇ \$10,000  | Housing Assistance            | toward the support of home purchase.                                                                                                                                                                                                                                                                                                                                                                                            |
| ◇ \$20,000  | Faculty Learning & Transition | Paid at your discretion per your letter of intent. The total Faculty Learning & Transition stipend is earned after completion of one full year of service. If a full year of service is not given, any amount paid but not earned must be repaid upon separation from service.                                                                                                                                                  |
| ◇ \$5,000   | Moving Costs                  | toward moving expenses.                                                                                                                                                                                                                                                                                                                                                                                                         |
| ◇ \$20,000  | Loan Repayment                | In addition, you will receive a loan repayment stipend of \$12,500 in year 2 and \$7,500 in year 3. Then total stipend of \$40,000 is given to support payment of qualified education debt, and is earned <sup>fairly in monthly increments</sup> <del>yearly</del> over each full-year of the first 3 years of service. Any amount paid but not earned must be <sup>repaid</sup> <del>repaid</del> upon separation of service. |

In addition to projected compensation above you are also eligible to participate in our departmental gain sharing and call and late day incentives. The amount of these incentives vary with your productivity and departmental financial progress. Combined gain sharing and late incentives ranged from \$5,000 to \$25,000 per faculty, but is not guaranteed and is based on individual and departmental performance.

I accept this Exhibit A as outlined above.

  
Signature

5/3/11  
Date



Mark F. Newman, MD  
Merel H. Harmel Professor and Chairman

April 13, 2011

Michael Shaughnessy, M.D.  
PO Box 3094 DUMC  
Durham NC 27710

Letter of Intent

Dear Dr. Shaughnessy:

It is with a great sense of pride in your accomplishments to date, as well as confidence in your future career capabilities, that I offer you a position as a faculty member at Duke University Medical Center, effective on the completion of your fellowship ~~next July, 2011.~~ <sup>May 2, 2011</sup> <sub>MS</sub>

A faculty position at Duke is both an honor and an opportunity. You will share that honor with 1300 of the best physicians in the world with the opportunity to provide and advance the care of patients both here and around the world as well as making a difference in the lives of the residents and fellows we educate. It is an opportunity that is unique and performed on a worldwide stage from which the efforts that we make and our accomplishments are uniquely visible and able to quickly advance the care of the patients in the state, the nation and the world.

We are aggressively recruiting you at this time to let you know of our strong interest in you joining the faculty and to commit to you additional resources to allow your transition to faculty status to come more easily. If you commit to the position by ~~April 29, 2011~~ <sup>May 2, 2011</sup> <sub>MS</sub>, we will provide you with \$20,000 to help transition finances and pay for additional expenses that are part of your move to the Duke faculty. At your discretion, this payment will be distributed at any point after May 1, 2011, in accordance with the Duke payroll cycle. In addition, as part of your contract, we have defined a loan repayment program that is defined in the Exhibit A and will start with your first year of faculty status. Those two processes will hopefully make your transition to the Duke faculty easier and make your starting salary very competitive with any academic program in the region or country. Much of the additional language contained in the attached is standard language for our contracts so, if you have additional questions, please feel free to ask.

Michael, please consider this letter of intent and the accompanying contract as our strong desire to have you join our faculty effective August 1, 2011. We look forward to hearing your decision as soon as possible.

Sincerely,

Mark F. Newman, M.D.  
Merel H. Harmel Professor and Chairman  
Department of Anesthesiology

I accept this offer as outlined above.

5/3/11  
(Date)

Michael Shaughnessy, M.D.



copy



AMENDED SEPARATION AGREEMENT FOR MICHAEL SHAUGHNESSY, MD

May 4, 2011

The following is an amended PDC Department of Anesthesiology Separation Agreement for Michael Shaughnessy, MD.

POLICY PROVISIONS

With the agreement of Michael Shaughnessy, MD and the Chairman of the Department of Anesthesiology, the PDC Separation Policy is amended for Dr. Shaughnessy to indicate that his maximum payout for separation from the PDC without 6 months notice would, in any case, be the maximum of \$20,000.

This maximum payment of \$20,000 includes separation during the first three years in which his maximum payout would be \$20,000 regardless of the additional pro rata dollars that are owed from his transitional or loan repayment bonuses as well as the PDC Separation Agreement.

Were Dr. Shaughnessy to leave within the first three years and give 6 months notice, he would pay the additional pro rata portion of any unearned transitional or loan repayment bonuses.

Prior to, on and after the execution of this Agreement, Physician agrees to keep the terms and facts of this Agreement confidential. Physician will not disclose any information concerning this Agreement to any third person except members of Physician's immediate family, Physician's accountant, and Physician's attorney, or as required by law. Notwithstanding the foregoing, Physician shall reply to any inquiries concerning the Agreement by stating that the Practice required Physician to honor the Departing Physician Policy.

If the aforementioned physician does not abide by the nondisclosure component of the agreement as outlined, then the separation payment will be based on the PDC Separation Agreement and Departmental Compensation Plan as written.

PRIVATE DIAGNOSTIC CLINIC, PLLC

PHYSICIAN

By: Paul R. Newman  
Its: Executive Director

\_\_\_\_\_  
\_\_\_\_\_  
M.D.

Date signed: \_\_\_\_\_

Date signed: \_\_\_\_\_



DukeMedicine

Duke University Medical Center

School of Medicine

Karen Silverberg

Associate Dean for Human Resources

July 6, 2010

Dr. Michael Reilly Shaughnessy  
45 Mount Vernon St, Apt 3B  
Boston, MA 02108

Dear Michael:

I am pleased to advise you that your appointment has been approved as Clinical Associate in the Department of Anesthesiology without tenure, effective July 31, 2010 through June 30, 2011. As a member of our faculty you are a most precious resource of the Medical Center, and we want to provide you with an environment that will continue to provide you with successful career opportunities. In accordance with the University policy as set forth in the Faculty Handbook, your service in this rank cannot be counted toward the attainment of continuous academic tenure.

Your salary, as well as the sources from which it is to be derived, will be determined by your departmental Chair, in accordance with the usual budgetary procedures of the Medical Center. The exact amount of your starting salary has been established and agreed upon by you in discussions with your Chair. In addition, you are eligible for the fringe benefits provided the faculty, which are also described in the current Faculty Handbook and the Faculty Benefits Handbook.

The mutual obligations imposed upon you and the University are described in the Faculty Handbook under the section entitled "Academic Freedom and Academic Tenure." Your Chair will discuss with you the responsibilities you are expected to assume as a member of the faculty, and will assign the necessary space in which to conduct your activities. I am sure your department will be happy to assist you in other areas of support as needs may arise.

It gives me great pleasure to welcome you to the Faculty of the Duke University School of Medicine. With best wishes for success.

Sincerely,

Karen Silverberg  
Associate Dean for Human Resources

cc: Dr. Newman

Conflict of Interest: Form should be completed online once you arrive at Duke <<https://faculty.duke.edu>>

References: Appointments, Promotions, and Tenure Procedure Manual  
[http://medschool.duke.edu/modules/som\\_faculty/index.php?id=15](http://medschool.duke.edu/modules/som_faculty/index.php?id=15)  
Duke University Faculty Handbook: <<http://www.provost.duke.edu/policies/fhb.html>>